THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION No.2155 OF 2003

ORAL ORDER:

The petitioners claim to be the sons of late Sayanna. It is stated that their grandfather by name Venkaiah was the protected tenant in respect of the land in Sy.Nos.185, 188, 189 and 195 of Karmanghat village, Saroornagar, Ranga Reddy District. After his death, the 2nd respondent herein, who is the brother of Sayanna i.e., paternal uncle of the petitioners herein, obtained Succession Certificate in the year 1962 in respect of the land in Sy.No.188 and 189, claiming falsely that the father of the petitioners got divided long back and that he had no claim. The petitioners being minors were not aware of the same. However, after attaining majority the petitioners filed an application before the 1st respondent for grant of Succession Certificate. The said application was dismissed by the 1st respondent. Questioning the same, they preferred an Appeal before the Joint Collector, Ranga Reddy District. The Appeal was dismissed on the ground that there was an inordinate delay in taking steps. The petitioners preferred a further Appeal before the Board of Revenue. In the meantime, a compromise was effected between the petitioners and the 2nd respondent, and consequently the Appeal before the Board of Revenue was not pressed.

Subsequently, the petitioners filed O.S.No.382 of 1991 on the file of the Court of Principal Senior Civil Judge, Ranga Reddy District, seeking partition in respect of Ac.2.02 gts of land situated in Sy.No.195 of Karmanghat village. The said suit was dismissed on 2.8.2001 holding that the petitioners cannot claim any right in respect of the suit land unless and until their right to succession is recognized. Aggrieved by the same, the petitioners preferred A.S.No.2149 of 2001, which was dismissed by this Court upholding the order of the learned

trial Judge. However, the petitioners were granted liberty to approach the authority under the Andhra Pradesh (Telangana Area) Tenancy and Agricultural Lands Act, 1950 (for short, "the Act") seeking appropriate relief. Accordingly, the petitioners filed a petition before the 1st respondent under Section 40 of the Act seeking issuance of Succession Certificate. The petitioners also filed an application for injunction restraining the 2nd respondent herein as well as respondent Nos.3 to 10, in whose favour the land was transferred by the 2nd respondent, from changing the nature of the land in question.

It is claimed by the petitioners that as a matter of fact, the 1st respondent granted interim direction on 27.1.2003; however, the same was kept in abeyance in view of the interim order dated 30.1.2003 granted by this Court in W.P.No.1796 of 2003 staying all further proceedings before the 1st respondent.

It is alleged that taking advantage of the above situation, the respondents 3 to 10 started constructions on the land in question and in spite of repeated requests made by the petitioners, the respondents 1 and 2 failed to take any action. Hence, this writ petition seeking a declaration that the action of the 1st respondent in not taking steps to prevent the alleged illegal constructions by the respondents 3 to 10 in Sy.No.195 of Karmanghat village, as arbitrary and illegal.

Despite notice, no counter-affidavit has been filed on behalf of respondents. Though appearance has been entered on behalf of respondent Nos. 2 to 6, they did not choose to file any counter.

I have heard the learned counsel for both the parties and perused the material on record.

It is relevant to note that during the pendency of this writ petition, W.P.No.1796 of 2003 was dismissed as withdrawn on 1.8.2003. Thus, the interim stay granted on 30.1.2003 is no longer subsisting.

In the circumstances, it is open to the 1st respondent to consider

the application of the petitioners filed under Section 40 of the Act and pass appropriate orders in accordance with law and it is not necessary for this Court to express any opinion on merits.

Accordingly, the writ petition is disposed of with a direction to the 1st respondent to hear both the parties and pass appropriate orders in accordance with law in the proceedings pending before him in File No.B/12417/2003 as expeditiously as possible, preferably within a period of three months from the date of receipt of a copy of this order. No costs.

28.12.2007.

Kgr.

THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION No.2155 OF 2003

28th December, 2007.

Between:

M. Prabhakar and another. .. Petitioners.

And

The District Collector and Mandal Revenue Officer, Saroornagar Mandal, R.R. Diostrict at Saroornagar and others. .. Respondents.